

1. Introduction

1.1 Definitions

Health and Safety Representatives (HSRs)	Persons responsible for facilitating consultation and cooperation between management and workers on health and safety issues within the workplace. Defined by areas of responsibility and operation where worker numbers demand such consultation.
Manager	An individual worker's direct supervisor/manager.
Officer	An officer is a person who makes decisions, or participates in making decisions, that affect the whole (or a substantial part) of a business or undertaking and has the capacity to significantly affect the financial standing of the business or undertaking.
Others	Visitors to a workplace.
PCBU	Person Conducting a Business or Undertaking. The business or undertaking can operate for profit or not-for-profit. A PCBU can be a corporation, association, partnership, sole trader or a volunteer organisation that employs any person to carry out work.
Reasonably practicable	Reasonably practicable means actions that are (or were at a particular time) reasonable to ensure health and safety, taking into account and weighing up all relevant matters including: <ul style="list-style-type: none">a) the likelihood of a hazard or risk occurringb) the degree of harm that might result from the hazard or riskc) what relevant persons know, or reasonably ought to know, about the hazard or risk and ways of eliminating or minimising the riskd) the suitable and available ways to eliminate or minimise the riske) after assessing the extent of the risk and the available control measures, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.
Workers	A worker is anyone who carries out work for a PCBU, such as an employee, a contractor or subcontractor, an employee of a contractor or subcontractor, an employee of a labour hire organisation, an apprentice or trainee, a student gaining work experience, an outworker or a volunteer.

1.2 General Statement of Policy

NQ Excavator Hire acknowledges that in society certain groups or individuals are denied equality on the grounds of race, ethnicity, language, gender, marital status, caring responsibilities, disability, age, social class, sexual orientation, educational background and religion/belief.

NQ Excavator Hire recognises, respects and values diversity in our workers, clients and stakeholders.

NQ Excavator Hire aims to create a positive and equitable work environment in which all workers are treated fairly and with respect, and are supported in realising their full potential. We do not tolerate discrimination on the basis of differences such as those listed above and are committed to providing an environment that is free from all forms of discrimination and racial or religious vilification.

NQ Excavator Hire recognises that we have moral and social responsibilities that go beyond the provisions of the legislation, and that we should support and contribute to the wider process of change through all aspects of our work and practices in order to eliminate discrimination and promote equality of opportunity and diversity.

NQ Excavator Hire has implemented affirmative action policies and procedures within the organisation.

For this Cultural Diversity/Anti-Discrimination Policy to be successful, it is essential that everyone is committed to and involved in its delivery. NQ Excavator Hire aims to embed this in all of our policies, procedures, day-to-day practices and external relationships.

NQ Excavator Hire welcomes the statutory requirements set down in the legislation as listed at the end of this policy.

1.3 Purpose

The Cultural Diversity/Anti-Discrimination Policy covers the behaviour of all people employed by NQ Excavator Hire or using our services, and the way they can expect to be treated in turn by the organisation.

The objectives of this policy are:

- Prevent unlawful discrimination, including race discrimination and racial or religious vilification at NQ Excavator Hire.
- Clearly convey to persons covered by the scope of this policy that any behaviour which may constitute discrimination will not be tolerated in any form at NQ Excavator Hire.
- Provide persons covered by the scope of this policy with a healthy and safe environment for work that is free from behaviours, practices and processes that may constitute discrimination and racial or religious vilification.

- Acknowledge that persons covered by the scope of this policy are to be informed of this policy and have access to the information and training needed to prevent and address any incidences of discrimination and racial or religious vilification that may occur.
- Outline the responsibilities of managers, officers and HSRs.
- Ensure that all workers recognise and value the differences and individual contribution that all people make to the organisation.
- Encourage the early reporting of any allegations of discrimination and racial or religious vilification.
- Ensure that complaints are dealt with in a sensitive, equitable, timely and confidential manner, through the use of procedures that are impartial, open and fair to all parties.

1.4 Scope

This policy is relevant to all workers of NQ Excavator Hire and others to ensure that the NQ Excavator Hire Work Health and Safety Policy is enforced.

2. Policy

2.1 Roles and Responsibilities

PCBU

The principal duty holder is a 'Person Conducting a Business or Undertaking' (PCBU).

The PCBU's responsibilities include:

- Ensure, as far as reasonably practicable, that the health and safety of workers and other persons is not put at risk from work carried out as part of the conduct of the business or undertaking.
- Provide the highest level of protection that is reasonably practicable in the circumstances, considering the gravity of the harm, its likelihood, the possible risk controls and, as a final resort, considering the costs of the various control options.

Workers

Workers must take reasonable care for their own health and safety and take reasonable care that their actions or omissions do not adversely affect the health and safety of others.

A worker is required to follow procedures put in place for their health and safety. This may include following safety manuals and procedures, participating in safety training, wearing PPE and exercising a level of care and responsibility in your work.

Every worker at all levels of a business should:

- Take ownership of their own health and safety for matters that are within their control or ability to influence.
- Work with colleagues to promote health and safety and ensure that it becomes a part of everyday business.
- Contribute to providing quality information that enables the establishment of baseline compliance levels and measuring changes in compliance over time.
- Be accountable as an individual to enhance a culture of health and safety within the PCBU.
- Ensure that they meet duty of care obligations as required under work health and safety laws.

Officers

Officers have a duty to exercise 'due diligence' to ensure that the PCBU complies with any duty or obligation. An officer must have high, yet attainable, standards of due diligence. These standards should relate to the position and influence of the officer within the PCBU.

An officer is responsible for the following:

- Be proactive and continuously ensure that the business or undertaking complies with relevant duties and obligations.
- Ensure that delegations are working effectively.
- Ensure engagement and leadership by officers and management.
- Continuously examine and ensure that the resources and systems of the PCBU are adequate to comply with the duty of care required by the PCBU.
- Ensure that the PCBU is performing effectively.
- Take reasonable steps to acquire and keep up-to-date knowledge of work health and safety matters.
- Gain an understanding of the hazards and risks associated with the nature of the operations.
- Ensure that the business or undertaking has appropriate resources and processes to enable hazards to be identified and risks to be eliminated or minimised.
- Ensure that the business or undertaking has appropriate processes for receiving and considering information about incidents, hazards and risks and for responding to these in a timely manner.
- Ensure that the business or undertaking implements processes for complying with its duties and obligations.

Health and Safety Representatives

Health and Safety Representatives (HSRs) have a responsibility to promote the health and safety of the workers in their work group or workplace.

Health and Safety Representatives' responsibilities include:

- Inspect the workplace of members of a work group if there has been a recent accident or dangerous occurrence, or where there is an immediate threat of an accident or dangerous occurrence, after giving the PCBU reasonable notice of the inspection.
- Make a request to an inspector, or the regulator, that an investigation be conducted in the workplace.

- Accompany an inspector during an investigation.
- Represent the members of the work group in health and safety consultations with the PCBU.
- Initiate emergency stop-work procedures when necessary.
- Issue Provisional Improvement Notices (PINs).

Others

Other persons (visitors) at the workplace have a duty to take reasonable care for their own health and safety. They also have a duty to take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons. They must also comply with any reasonable instruction given by the PCBU to maintain the PCBU's compliance with the *Work Health and Safety Act 2011 (Commonwealth)*.

2.2 Policy Details

NQ Excavator Hire is committed to taking positive steps to ensure that:

- all people are treated with dignity and respect, valuing the diversity of all
- equality of opportunity and diversity is promoted
- services are accessible, appropriate and delivered fairly to all.

2.3 Race Discrimination

Race discrimination, or racial or religious vilification, is unacceptable and will not be tolerated at NQ Excavator Hire under any circumstances.

Race discrimination involves treating a person less favourably because of that person's race than another person in the same or similar circumstances.

Direct race discrimination occurs when a person is disadvantaged or treated less favourably than someone else because of their race, colour, descent or national or ethnic origin. Direct discrimination can occur regardless of the discriminator's motive and whether or not he or she is aware of the discrimination or considers the treatment less favourable.

Indirect race discrimination occurs when a practice or policy appears to be fair because it treats everyone in the same way but, in effect, it disadvantages a higher proportion of people from one racial or ethnic group and is not reasonable in the circumstances.

Racial or religious vilification is behaviour that incites or encourages hatred, serious contempt, revulsion or severe ridicule against another person, or group of people, because of their race or religion.

Cultural diversity should be recognised and respected, and should not be feared. It is an asset, not a hindrance. Culture reflects both the similarities that unite us as human beings and the differences that characterise our upbringing – such as variations in ethnic background, language, class, gender, socio-economic status, country of origin, regional differences, religious beliefs, sexual orientation and age.

2.4 Victimisation

NQ Excavator Hire will not tolerate victimisation and may take disciplinary action in response to any victimisation.

NQ Excavator Hire will ensure, as far as is practicable, that persons covered by the scope of this policy are not victimised or penalised for reporting alleged unreasonable behaviour. Any worker who is found to have victimised a person who has made (or intends to make) a complaint, or who is found to have victimised a witness or associate of the person making a complaint, will be subject to the consequences of breaching this policy.

2.5 Equal Opportunity and Anti-Discrimination

NQ Excavator Hire is committed to eliminating unlawful direct and indirect discrimination and harassment on the basis of:

- race, colour, descent, national or ethnic origin, ethno-religious background, language
- gender
- marital status or caring responsibilities
- pregnancy or potential pregnancy
- disability, (including physical, intellectual or other disability and illnesses such as HIV/AIDs) whether real or imputed, past, present or future disabilities
- age
- social class or educational background
- sexual orientation, homosexuality or transgender status
- religion, values or beliefs.

NQ Excavator Hire supports equal opportunity and anti-discrimination and will actively promote this by:

- creating an environment that is free of discrimination and harassment
- providing clear and accountable educational and management policies and practices
- developing and operating affirmative action programs and equity strategies

- providing effective mechanisms to resolve complaints.

The business practices of NQ Excavator Hire comply with current anti-discrimination legislation.

2.6 Affirmative Action

Affirmative action is based on basic social justice, which seeks equality of employment opportunity for all workers. This means that all forms of direct and indirect discrimination need to be addressed. Also, the effect of past discrimination needs to be assessed in view of setting up appropriate programs. Improvements in equality of employment opportunity affect the process by which selection for promotion or the distribution of minority groups in an organisation is promoted and planned. Therefore, specific goals should be clearly enunciated and opportunities made available for training and development.

2.7 Equal Employment Opportunity

NQ Excavator Hire promotes equal employment opportunities for staff in all aspects of the organisation's activities. Equal employment opportunity results when the person best qualified is successful without discrimination, through processes that are open, transparent, competitive and based on merit.

This policy relates to all aspects of employment, including recruitment and selection, promotion, job classification, staff development, supervision and interpersonal relationships.

NQ Excavator Hire is committed to developing and maintaining policies and programs that ensure persons with equivalent skills and qualifications have an equal chance of obtaining a position and of advancing within the organisation.

Workers have the right to work and access services in an environment that is safe, equitable, free from discrimination and harassment, and in which everyone is respected and treated fairly. Workers also have a responsibility to treat other staff members fairly, with respect and without discrimination or harassment.

The management of NQ Excavator Hire supports equal opportunity in the workplace on a day-to-day basis, which includes, but is not limited to:

- taking active steps to prevent and eliminate discrimination and harassment
- dealing fairly and equitably with complaints or grievances from staff
- managing staff fairly, including consulting workers about decisions affecting them
- providing all workers with equitable access to development opportunities to achieve career goals
- conducting recruitment and selection processes fairly and in accordance with correct procedures.

NQ Excavator Hire will attract a more diverse range of applications to available positions by:

- including comments in advertisements that Indigenous people and people of culturally diverse backgrounds are encouraged to apply
- placing advertisements in appropriate publications and non-traditional media to make them attractive and visible to a diverse range of applicants
- conducting a search when it becomes apparent, prior to shortlisting, that there is not a suitably diverse range of quality applicants (if this is to be used it is important to indicate in the advertisements that this may occur).

When a suitably diverse pool of quality applicants has been obtained, competent and competitive applicants will be shortlisted and selected based on merit. The final selection will take into account the identified business needs and the mix of appointees that will best meet the work-related requirements of the position. Equal opportunities are to be offered to applicants from those groups previously under-represented in the workforce at NQ Excavator Hire.

2.8 Policy Responsibilities

Worker Responsibilities

All persons covered by the scope of this policy are required to:

- comply with this policy
- behave appropriately
- promote a culture of mutual respect
- maintain confidentiality concerning any complaint or investigation.

Manager Responsibilities

Managers are accountable for the conduct of workers whom they oversee at NQ Excavator Hire.

It is integral to a manager that they identify, prevent and redress potential problems in the workplace before these become the subject of complaints. Therefore, any manager, officer or HSR who observes inappropriate behaviour has a duty to raise it with the person so behaving and to take further action if the behaviour does not cease. This duty exists even in the absence of a complaint.

Managers are required to:

- monitor the working environment to ensure that acceptable standards of conduct are observed at all times, and to take action if they observe unacceptable conduct
- take appropriate steps according to this policy to prevent a discriminatory culture from developing at NQ Excavator Hire.
- promote this policy to ensure that all workers have an understanding of the policy and its requirements
- manage complaints of discrimination in a timely, confidential and fair manner, ensuring due process
- attempt to resolve any complaint of discrimination at the local level, whenever possible.

2.9 Disciplinary Procedures and Compliance

The responsibility for monitoring and enforcing this policy rests with an Officer and HSR of NQ Excavator Hire, and with managers at each work unit level.

Staff adherence to this policy is a condition of employment. Any breach of this policy will lead to a formal warning issued by management in accordance with NQ Excavator Hire **WHS – Breach of Work Health and Safety Requirements** disciplinary procedure.

Any complaints made by workers under this policy will be dealt with via the **HR – Grievance and Complaint Resolution Policy**.

If a serious breach of this policy occurs through a customer, contractor, service provider or visitor engaging with workers of NQ Excavator Hire, appropriate action must be taken in accordance with the relevant Service Contract or Agreement.

2.10 Consequences for Breaching this Policy

NQ Excavator Hire will treat all allegations of discrimination and racial or religious vilification seriously and impartially. The consequences for breaching this policy will depend on the seriousness of the case. Outcomes may include, but are not restricted to the following:

- gaining a commitment from one or more persons to cease, and not to repeat, the behaviour
- making an apology to the affected person or persons
- providing mediation between the parties, if both parties agree to a mediation process and to the mediator
- providing targeted training regarding the prevention of unacceptable workplace behaviours

- offering support to the person making the complaint
- offering support to the person against whom the complaint is made
- disciplinary action, up to and including dismissal, against the person found responsible for discrimination
- disciplinary action, up to and including dismissal, against the person making a complaint of discrimination if, after investigation, the complaint is found to have been malicious or vexatious
- disciplinary action against anyone who victimises or retaliates against a person who has made a complaint.

3. Policy Implementation

This policy is to be implemented through the procedures and arrangements established under NQ Excavator Hire's Work Health and Safety Program, which has been designed to provide the highest level of safety for the company, workers and others..

3.1 Breach of this Policy

Breach of this policy could harm NQ Excavator Hire's ability to achieve our work health and safety obligations. Failure to comply with the principles of this policy, or of the supporting procedures and forms, could result in appropriate disciplinary actions, suspension, termination of employment (dismissal) or termination of vendor contracts and agreements. Additionally, individuals may be subject to loss of NQ Excavator Hire access, privileges, civil and/or criminal prosecution.

Refer to **WHS – Breach of Work Health and Safety Requirements**.

3.2 Policy Review

The policy will be reviewed annually in consultation with relevant workers, using established consultative mechanisms, and revised as necessary to keep in line with new legislation and company changes or growth. The date of each review (as far as is practicable) will fall on 1 July each year.

3.3 Dissemination of Policy

A copy of this policy will be provided to each worker upon commencement of work and a copy placed in a prominent position in all main areas of the premises. Additional copies will be made available upon request.

3.4 Authority and Responsibility

This policy is issued under the authority of the Managing Director of NQ Excavator Hire.

3.5 Enquiries and Faults

Adherence to this policy will generally ensure compliance with the requirements of NQ Excavator Hire and relevant legislation. However, there may be instances where inadvertent breaches could occur. When in doubt, workers requiring assistance with the interpretation of this policy, or who wish to report a breach of this policy, should contact an Officer or HSR of NQ Excavator Hire.

3.6 Related Documents

a) Forms

b) Procedures

- i) WHS – Breach of Work Health and Safety Requirements

c) Supplementary Policies

- i) WHS – Work Health and Safety Policy
- ii) HR – Grievance and Complaint Resolution Policy

d) Legislation

- i) Work Health and Safety Act 2011 (Commonwealth)
- ii) Work Health and Safety Regulations 2011 (Commonwealth)
- iii) Health and Safety Codes of Practice 2011
- iv) Racial Discrimination Act 1975 (Commonwealth)
- v) Human Rights and Equal Opportunity Commission Act 1986 (Commonwealth)
- vi) Disability Discrimination Act 1992 (Commonwealth)
- vii) Relevant State Equal Opportunity Act
- viii) Relevant State Racial Tolerance Act

3.7 Policy Version Control

Date	Author/Department	Version Number	Change Summary
12/12/13	David Vass/WHS Officer	1.0	Original

Signed, written acknowledgement of the Cultural Diversity and Anti-Discrimination Policy:

I acknowledge the NQ Excavator Hire Cultural Diversity and Anti-Discrimination Policy. I have read the policy in full and fully agree to abide by all its terms.

I understand that if I violate the terms of this policy then my employment could be subject to termination or even civil prosecution.

Worker name:

Worker signature:

_____ Date: ____/____/____